

**DEPARTMENT OF INSURANCE****Legal Division, Rate Enforcement Bureau**

45 Fremont Street, 21st Floor  
San Francisco, CA 94105



**NOTICE OF PROPOSED READOPTION OF  
EMERGENCY REGULATIONS  
PURSUANT TO CALIFORNIA INSURANCE CODE SECTION 12921.7**

File No. ER02025956

April 21, 2003

**CALIFORNIA LOW COST AUTOMOBILE INSURANCE PROGRAM**

**Uninsured Motorists and Medical Payment Coverages**

California Insurance Commissioner John Garamendi hereby provides notice, pursuant to California Insurance Code Section 12921.7, that he will propose to the Office of Administrative Law the emergency readoption of amendment of the California Automobile Insurance Low Cost Program Plan of Operations, referenced in Title 10, Chapter 5, Section 2498.6 of the California Code of Regulations, in accordance with California Government Code Section 11346.1(h).

This Notice contains a description of the problem and necessity for regulation, an explanation of the justification for the readoption of the regulation on an emergency basis and a copy of the text.

This Notice is provided to every person, group, and association who has previously filed a request for notice of regulatory action with the Commissioner. Copies of the Notice are available at the Department of Insurance, 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California, 94105 and on the Department's web site at [www.insurance.ca.gov](http://www.insurance.ca.gov).

The proposed readoption of emergency regulation will be submitted to the Office of Administrative Law together with the rulemaking file not less than five (5) working days after the mailing of this Notice, as required by California Insurance Code Section 12921.7. Questions regarding this Notice should be directed to:

California Department of Insurance  
Legal Division, Rate Enforcement Bureau  
Attn: Mary Ann Shulman (415)538-4133 or  
Attn: Elizabeth Mohr (415)538-4112  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105

**DESCRIPTION OF PROBLEM AND NECESSITY FOR REGULATION**

Low Cost Auto Insurance Program legislation, Stats. 2002, chapter 742, (formerly SB 1427, Escutia) was approved by the Governor on September 20, 2002. The legislation amended Insurance Code Sections 11629.71 and 11629.91 requiring that, effective January 1, 2003, uninsured motorists and medical payments coverages be offered to eligible consumers. The legislation does not specify a rate, but merely states that additional premiums are authorized.

The low cost automobile insurance pilot programs were established within the California Automobile Assigned Risk Plan (CAARP) and follow CAARP procedures where appropriate and not inconsistent with the low cost automobile insurance statutes. Under the assigned risk plan, applicants for insurance are randomly assigned to a licensed automobile insurer and that insurer issues and services the policy in accordance with the Plan. Customarily, CAARP and low cost automobile insurance pilot program rates are uniform so that the consumer pays the same rate irrespective of what company the consumer is assigned.

Consistent with Insurance Code Section 11580.2, the legislation provides for uninsured motorists coverage at the lower liability limits of the underlying low cost auto insurance policy. Because the low cost auto insurance policy is at lower liability limits than basic limits policies in the voluntary market, rates must be independently calculated. Thus, establishing uniform rates for the additional coverages requires significant and time-consuming actuarial efforts.

To establish uniform rates for the additional coverages, the Plan of Operations must be amended. After reviewing rates proposed by CAARP's Advisory Committee, the Department determined that rates different than the ones proposed by CAARP should be established for the legislatively-mandated coverages. The rates proposed by the Department were approved by the Office of Administrative Law on January 10, 2003 and will expire on May 13, 2003.

#### **JUSTIFICATION FOR READOPTION AS EMERGENCY REGULATIONS**

There was not sufficient time to follow the CAARP and low cost automobile insurance pilot programs' statutory rate-setting procedures. Because SB 1427 requires uninsured motorists and medical payments coverages to be offered as of January 1, 2003, adoption of rates on an emergency basis was the only way to implement rates by that date.

The Department has initiated regular rulemaking action. Following statutory rate-setting procedures, a Notice of Proposed Action and Notice of Public Hearing was published on March 14, 2003. A public hearing will be held in San Francisco on May 7, 2003, at the close of the 45-day public comment period.

There will not be sufficient time to duly consider public comments to determine rates for these coverages and complete the Certificate of Compliance prior to the expiration of the emergency amendments. Consequently, unless the emergency amendment is readopted, there will not be uniform rates to quote eligible consumers, affecting the availability of the coverages mandated by the legislature. For these reasons, the emergency continues.

The Insurance Commissioner proposes the readoption of this rulemaking action pursuant to the authority vested in him by Insurance Code Sections 11620, 11624, 11629.7, 11629.72, 11629.9, 11629.92 and 11629.99. The purpose of this rulemaking action is to implement, interpret, and make specific the provisions of 2002 Stats. Chapter 742, operative January 1, 2003.

**TEXT OF THE PROPOSED REGULATION IS ATTACHED.**

Dated: April 21, 2003

JOHN GARAMENDI, Insurance Commissioner

By: \_\_\_\_\_/s/\_\_\_\_\_  
Mary Ann Shulman, Staff Counsel